

WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP

JOHN L. FREEMAN
 EDGAR J. NATHAN, 3RD
 CHARLES H. BALLER
 DAVID A. RUTTENBERG
 DANIEL W. KRASNER
 FRED T. ISQUITH
 STUART M. SAFT*
 ERIC B. LEVINE
 JEFFREY G. SMITH†
 FRANCIS M. GREGOREK‡
 MARY JANE FAIT*
 ROBERT D. STEELE
 MARK C. SILVERSTEIN
 ELI D. GREENBERG
 PETER C. HARRAR
 LAWRENCE P. KOLKER
 MARK C. RIFKIN♦
 JEFFREY M. SCHWARTZ
 MICHAEL JAFFE†
 MARIA I. BELTRANI*
 MICHAEL E. FLEISS
 BETSY C. MANIFOLD†
 ALEXANDER H. SCHMIDT♦
 JEFFREY S. REICH*
 GREGORY M. NESPOLE
 DAVID L. WALES
 FRANCIS A. BOTTINI, JR.¶
 DEMET BASAR°
 ADAM J. LEVITT‡
 LISA A. LOWENTHAL
 STEVEN D. SLADKUS°

FOUNDED 1888
 270 MADISON AVENUE
 NEW YORK, NY 10016
 212-545-4600
 WWW.WHAFH.COM
 —
 SYMPHONY TOWERS
 750 B STREET - SUITE 2770
 SAN DIEGO, CA 92101
 619-239-4599
 625 NORTH FLAGLER DRIVE
 9TH FLOOR
 WEST PALM BEACH, FL 33401
 561-833-1776
 WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLC
 55 WEST MONROE STREET, SUITE 1111
 CHICAGO, IL 60603
 312-984-0000
 DIRECT DIAL 212-545-4605
 FACSIMILE 212-545-4653
BRUCKNER@WHAFH.COM

M. JOSHUA ABER
 CARL R. SLOAN
 ROBERT B. WEINTRAUB
 ROBERT ABRAMS
 OF COUNSEL
 ALAN McDOWELL♦
 LINDA A. REDLISKY
 NANCY S. PITKOFSKY°
 MICHAEL C. MULÉ°
 RACHELE R. RICKERT¶
 THOMAS H. BURT
 JILL H. BLUMBERG°
 SCOTT J. FARRELL°
 KATE M. McGUIRE
 LAUREN P. KRAUS°
 GUSTAVO BRUCKNER°
 STACEY T. KELLY°
 RONNIE BRONSTEIN
 PAULETTE S. FOX°
 MICHAEL J. MISKE
 TAMARA E. GROSS
 CHRISTOPHER S. HINTON
 JOSHUA BERENGARTEN
 INGRID C. MANEVITZ°
 MATTHEW M. GUINEY
 MARTHA J. BROSIUS
 AYA BOUCHEIDID
 JULIE F. CORBO¶
 —
 ALSO ADMITTED
 *FL, †CA, °NJ, ♦IL
 ONLY ADMITTED
 ¶CA, ‡IL, □VA, ♣NJ & PA

November 2, 2005

BY HAND DELIVERY

Honorable Michael B. Mukasey
 Chief Judge
 United States District Court
 Southern District of New York
 Daniel Patrick Moynihan United States Courthouse
 500 Pearl Street, Room 2240
 New York, New York 10007

Re: Egleston v. Mosingo, et al
 05-CV-04950 (MBM)

Dear Judge Mukasey:

We represent Plaintiff and Lead Plaintiff movant K.J. Egleston in the above-captioned matter pending before Your Honor. We write pursuant to Your Honor's Order of October 24, 2005. It is Plaintiff's position that this action should be removed from the suspense calendar and the case permitted to proceed against the non-bankrupt defendants.

On May 17, 2005, Collins & Aikman Corporation sought bankruptcy protection. On May 23, 2005, Plaintiff filed this action for violations of the federal securities laws during the period between May 15, 2003 and March 17, 2005, inclusive, against defendants Jerry L. Mosingo, David A. Stockman, J. Michael Stepp, and Bryce Koth, officers of the Company during the relevant time period. Several related actions were filed on behalf of investors [05-3791, 05-5098, and 05-5251] of which two had named Collins & Aikman Corporation as a defendant.

WOLF HALDENSTEIN ADLER FREEMAN & HERZ LLP

BY HAND DELIVERY

Honorable Michael B. Mukasey
November 2, 2005
Page 2

On June 6, 2005, pursuant to the procedures established by the PSLRA, Plaintiff moved the Court to consolidate the various related actions and appoint Plaintiff as Lead Plaintiff. No other motion for appointment to be lead plaintiff was made. The Court has not yet decided this motion. Plaintiff intends to prosecute this action against the Non-Debtor defendants.

In the Second Circuit, “[i]t is well-established that stays pursuant to 11 U.S.C. § 362(a) are limited to debtors and do not encompass non-bankrupt co-defendants.” *Teachers Ins. & Annuity Ass'n of Am. v. Butler*, 803 F.2d 61, 65 (2d Cir. 1986). “Consistent with that guideline, courts in this Circuit have regularly refused to extend a debtor corporation’s § 362(a) stay to its non-debtor officers and principals.” *Gucci, Am., Inc. v. Duty Free Apparel, Ltd.*, 328 F. Supp. 2d 439, 441 (S.D.N.Y. 2004); *Gray v. Hirsch*, 230 B.R. 239, 242 (S.D.N.Y. 1999).

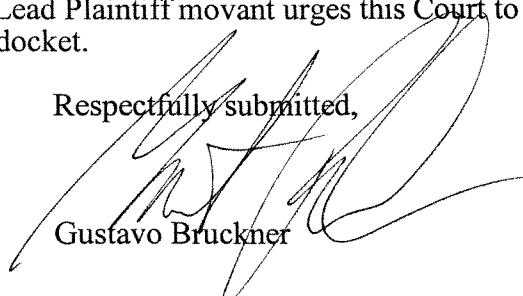
Should the Non-Debtor defendants seek protection of the bankruptcy stay, defendants would “bear[s] the burden of demonstrating that circumstances warrant extending the stay.” *In re Adelphia Commc'n Corp.*, 298 B.R. 49, 54 (S.D.N.Y. 2003). “In the absence of **evidence** which demonstrates any impact upon the debtor’s reorganization effort, the stay cannot be extended to a [non-debtor].” *CAE Indus., Ltd. v. Aerospace Holdings Co.*, 116 B.R. 31, 34 (S.D.N.Y. 1990)(emphasis added).

The Second Circuit has allowed a single exception to the settled rule that stays under Section 362(a) apply only to the debtor. That lone exception permits the extension of the automatic stay to a non-debtor “only when a claim against the non-debtor will have an **immediate adverse economic consequence** for the debtor’s estate.” *Queenie, Ltd. v. Nygard Int'l*, 321 F.3d 282, 287 (2d Cir. 2003) (emphasis added). This is not the situation here.

The securities litigation was filed against Non-Debtors based upon actions for which they are independently liable under the federal securities laws.

Therefore, Plaintiff and putative Lead Plaintiff movant urges this Court to remove the above captioned case from the suspense docket.

Respectfully submitted,



Gustavo Bruckner

GB/418877
Enclosures